

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

John Arthur Bonner,

Plaintiff

v.

Jerry Howell, et al.,

Defendants

Case No.: 2:19-cv-01918-JAD-VCF

Order Dismissing Action

Plaintiff John Arthur Bonner brings a claim under the Federal Tort Claims Act for events he alleges occurred during his incarceration at Three Lakes Valley Conservation Camp.¹ On February 26, 2021, the magistrate judge directed Bonner to file a non-prisoner application to proceed *in forma pauperis* within 30 days.² The magistrate judge expressly warned him that if he failed to timely comply with the order this case would be subject to dismissal without prejudice.³ The deadline has passed, and Bonner has not filed a non-prisoner application to proceed *in forma pauperis*.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁴ A court may dismiss an action with prejudice based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.⁵ In determining whether to

¹ ECF No. 1-1 (complaint).

² ECF No. 8 (order).

³ *Id.*

⁴ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁵ *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–

dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.⁶

I find that the first two factors—the public's interest in expeditiously resolving the litigation and the court's interest in managing the docket—weigh in favor of dismissing this case. The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or prosecuting an action.⁷ The fourth factor is greatly outweighed by the factors in favor of dismissal, and a court's warning to a party that his failure to obey the court's order will result in dismissal satisfies the consideration-of-alternatives requirement.⁸ Bonner was warned that his case could be subject to dismissal without prejudice if he failed to file a non-prisoner application to proceed *in forma pauperis* within 30 days.⁹ So, Bonner had adequate warning that his failure to file a non-prisoner application to proceed *in forma pauperis* would result in this case's dismissal.

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41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

⁶ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

⁷ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

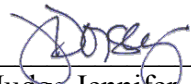
⁸ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁹ ECF No. 8 (order).

1 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without
2 prejudice based on Bonner's failure to file a non-prisoner application to proceed *in forma*
3 *pauperis* in compliance with this court's February 26, 2021, order; and

4 The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS
5 CASE.

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7 Dated: April 7, 2021

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10 U.S. District Judge Jennifer A. Dorsey
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